

**Introduced by Senator Wiggins**

February 27, 2009

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An act to amend Sections 927.2 and 927.11 of the Government Code, relating to claims against state agencies.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 553, as introduced, Wiggins. Payment of state claims: grants: nonprofit public benefit corporations.

The California Prompt Payment Act generally governs the payment of invoices by state agencies. The act requires a state agency that awards a grant, as defined, to make payment to the person or business that is the recipient of the grant on the date required by the grant and within a specified period from the receipt of an undisputed invoice, or be subject to a late payment penalty. Existing law defines a grant for the purposes of these provisions as a signed final agreement between any state agency and a local government agency or organization authorized to accept grant funding for victim services or prevention programs administered by any state agency.

This bill would apply the above requirement regarding the timely payment of grants to any signed final agreement between any state agency and a local government agency or organization authorized to accept grant funding administered by any state agency.

The act provides that, in the event a state agency fails to make timely payment because no Budget Act has been enacted, penalties shall continue to accrue until the time that the invoice is paid. Existing law provides that a nonprofit public benefit corporation is not eligible for a late payment penalty in those circumstances.

This bill would delete the above eligibility provision regarding nonprofit public benefit corporations, thereby making those corporations eligible for late payment penalties under the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 927.2 of the Government Code is  
2 amended to read:  
3 927.2. The following definitions apply to this chapter:  
4 (a) “Claim schedule” means a schedule of invoices prepared  
5 and submitted by a state agency to the Controller for payment to  
6 the named claimant.  
7 (b) “Grant” means a signed final agreement between any state  
8 agency and a local government agency or organization authorized  
9 to accept grant funding for victim services or prevention programs  
10 administered by any state agency. Any such grant is a contract and  
11 subject to this chapter.  
12 (c) “Invoice” means a bill or claim that requests payment on a  
13 contract under which a state agency acquires property or services  
14 or pursuant to a signed final grant agreement.  
15 (d) “Medi-Cal program” means the program established pursuant  
16 to Chapter 7 (commencing with Section 14000) of Part 3 of  
17 Division 9 of the Welfare and Institutions Code.  
18 (e) “Nonprofit public benefit corporation” means a corporation,  
19 as defined by subdivision (b) of Section 5046 of the Corporations  
20 Code, that has registered with the Department of General Services  
21 as a small business.  
22 (f) “Nonprofit service organization” means a nonprofit entity  
23 that is organized to provide services to the public.  
24 (g) “Reasonable cause” means a determination by a state agency  
25 that any of the following conditions are present:  
26 (1) There is a discrepancy between the invoice or claimed  
27 amount and the provisions of the contract or grant.  
28 (2) There is a discrepancy between the invoice or claimed  
29 amount and either the claimant’s actual delivery of property or  
30 services to the state or the state’s acceptance of those deliveries.

(3) Additional evidence supporting the validity of the invoice or claimed amount is required to be provided to the state agency by the claimant.

(4) The invoice has been improperly executed or needs to be corrected by the claimant.

(5) The state agency making the determination or the claimant involved has been subject to a computing or accounting failure related to the Year 2000 Problem.

(h) “Received by a state agency” means the date an invoice is delivered to the state location or party specified in the contract or grant or, if a state location or party is not specified in the contract or grant, wherever otherwise specified by the state agency.

(i) “Required payment approval date” means the date on which payment is due as specified in a contract or grant or, if a specific date is not established by the contract or grant, 30 calendar days following the date upon which an undisputed invoice is received by a state agency.

(j) “Revolving fund” means a fund established pursuant to Article 5 (commencing with Section 16400) of Division 4 of Title 2.

(k) “Small business” means a business certified as a “small business” in accordance with subdivision (d) of Section 14837.

(l) “Small business” and “nonprofit organization” mean, in reference to providers under the Medi-Cal program, a business or organization that meets all of the following criteria:

(1) The principal office is located in California.

(2) The officers, if any, are domiciled in California.

(3) If a small business, it is independently owned and operated.

(4) The business or organization is not dominant in its field of operation.

(5) Together with any affiliates, the business or organization has gross receipts from business operations that do not exceed three million dollars (\$3,000,000) per year, except that the Director of Health Services may increase this amount if the director deems that this action would be in furtherance of the intent of this chapter.

(m) “Year 2000 Problem” has the same meaning as that set forth in subdivision (a) of Section 3269 of the Civil Code.

SEC. 2. Section 927.11 of the Government Code is amended to read:

1 927.11. (a) Except in the case of a contract with a certified  
2 small business, a nonprofit organization, or a nonprofit public  
3 benefit corporation, if an invoice from a business under a contract  
4 with the Department of Forestry and Fire Protection would become  
5 subject to late payment penalties during the annually declared fire  
6 season, as declared by the Director of Forestry and Fire Protection,  
7 then the required payment approval date shall be extended by 30  
8 calendar days.

9 ~~(b) No nonprofit public benefit corporation shall be eligible for~~  
10 ~~a late payment penalty if a state agency fails to make timely~~  
11 ~~payment because no Budget Act has been enacted.~~

12 ~~(e)~~

13 (b) If the Director of Finance determines that a state agency or  
14 the Controller is unable to promptly pay an invoice as provided  
15 for by this chapter due to a major calamity, disaster, or criminal  
16 act, then otherwise applicable late payment penalty provisions  
17 contained in Section 927.7 shall be suspended except as they apply  
18 to a claimant that is either a certified small business, a nonprofit  
19 organization, a nonprofit public benefit corporation, or a small  
20 business or nonprofit organization that provides services or  
21 equipment under the Medi-Cal program. The suspension shall  
22 remain in effect until the Director of Finance determines that the  
23 suspended late payment penalty provisions of this section should  
24 be reinstated.

25 ~~(d)~~

26 (c) ~~Except as provided in subdivision (b), in~~ In the event a state  
27 agency fails to make timely payment because no Budget Act has  
28 been enacted, penalties shall continue to accrue until the time that  
29 the invoice is paid.